

Senate Fish and Game Hearing - Thursday, Feb. 19, 2009
Testimony from Montana Outfitters and Guides Assn.

SB 183 (Sen. Joe Balyeat, R-Bozeman) would create the **Montana Wolf Recovery Act** (Act). This 15-page bill has 17 new sections of proposed law, amends 5 sections, and has a 6-page fiscal note (average fish and game FN is 1-2 pages). The bill speaks to those who have been harmed by wolves, but at the end of the day, there is a responsibility to face the reality of possibilities.

Here are some highlights of the bill:

- SB 183 would void current wolf management and control cooperative agreements between USFWS and FWP and essentially take all matters relating to the gray wolf in Montana out of federal control.
- Any future cooperative agreement between Montana and the United States would occur ONLY after the US met certain conditions.
- These conditions are a written agreement from the federal govt. that it accepts 6 principals: (1) a natural balance between predators and prey is not acceptable; (2) predator populations may not conflict with the hunting heritage, safety for people outdoors, and the successful pursuit of "businesses on land where predators range;" (3) a person's right of defense of self and property extends to defense from animals; (4) the federal govt. may not impede the state's ability to manage wildlife activities according to the citizen's needs and values; (5) the state is eligible to recover damages from the US "for each game animal taken by wolves" in the amount established by the statute setting restitution for illegal killing of wildlife, fur-bearers, game birds and fish; and (6) the US court of federal claims is the proper venue for claims arising out of the Act.
- Eight elected and appointed officials would have to certify that the above conditions had been met. This certificate of compliance could be withdrawn if two members withdraw from the agreement. (The fiscal note says one of the eight is prohibited by law from serving in this capacity.)
- Until all of the provisions of the 17 new sections are met, wolves are unprotected on private land in Montana.
- The target population is 150 individual wolves.
- To be in compliance with the Act, (1) the gray wolf must be removed from the endangered or threatened list; (2) wolf populations are at or below 150% of target; (3) resident big game harvest meets a threshold formula; (4) county commissioners have determined that livestock predation by wolves has not increased in their county; and (5) wolves are not carrying diseases.
- Anyone taking/possessing a wolf on state or private property cannot be arrested or issued a citation any time the presence of wolves is not in compliance with the state wolf management policy established in the 17 new sections. If a resident is arrested by the US, the state will reimburse reasonable defense costs.
- FWP may not expend any state money or time implementing or enforcing US wolf policies if the wolf presence is not in compliance.

- In the event a resident suffers injury or death due to wolves during a period of noncompliance, any individual(s) or group(s) responsible for inflicting wolves on the state, or that tried to delay delisting through litigation or providing erroneous data regarding wolf numbers and other statistics are civilly liable and may be prosecuted.

The MOGA governmental affairs committee discussed this issue at length before reaching a position. We wanted to support our members, but needed to act responsibly as well.

Several years ago, MOGA took the high road and developed a delisting statement from an understanding of the facts, the tremendous hardships many members were facing, and the possibilities within the law. MOGA was also represented on the Wolf Advisory Council by outfitter/legislator Bruce Malcolm.

MOGA's statement mirrors the management plan eventually drafted by FWP and eventually upheld by the court. MOGA's position statement does not mesh with SB 183.

SB 183 torpedoed the current plan and leaves a vacuum with regard to wolf management. FWP would have to step in and defend against litigation that would ultimately return management to the federal government. MOGA must oppose SB 183.

Perhaps the proponents and the opponents should take the initiative to organize the farmer/rancher/sportsmen/outfitter groups and persuade the governor that his credibility with the Obama Administration might be the best chance we have to proceed with Montana's wolf management plan. Let's ask President Obama to allow the rule in the Federal Register pipeline to proceed. Montana's Congressional delegation should support our efforts as well.